IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. 29436-M of 2007
Date of decision: May 10, 2007

Gura Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

Present: Mr. Rajesh Kumar Girdhar, Advocate
for the petitioner.

S.S.SARON, J.

The petitioner-Gura Singh by way of this petition under Section 482 CrPC seeks quashing of the order dated 15.07.2006 (Annexure P-1) passed by the learned Sub Divisional Judicial Magistrate, Muktsar granting interim maintenance to the respondent-Smt. Sunila as well as the impugned order dated 19.02.2007 (Annexure P-2) whereby the learned Additional Sessions Judge (Ad hoc) Fast Track Court, Muktsar has dismissed his revision petition.

The parties are husband and wife. Out of the marriage, they have two children who have been adopted from the previous marriage of Smt. Sunila. The respondent-Smt. Sunila has alleged that she was illtreated and turned out of her house along with her children. Despite convening of a Panchayat on 30.05.2004 comprising of respectables, the petitioner refused to rehabilitate her. The respondent claimed that she has no source of income and is therefore unable to maintain herself and her children. The petitioner is

stated to be owning 3.5 killas of land. Besides, he has buffaloes. His annual income is Rs.2 lacs. Therefore, she filed a petition under Section 125 CrPC for the grant of maintenance. During the pendency of the petition, an application for grant of interim maintenance was allowed and the maintenance has been granted to her (respondent-Smt. Sunila) to the extent of Rs.600 per month from the date of filing the petition. In pursuance of that, the impugned orders are assailed by the petitioner.

Learned counsel for the petitioner has submitted that the solemnization of the marriage of the petitioner with the respondent-Smt. Sunila has been denied. In fact the petitioner was married to one Gurdeep Kaur who died in 1999. Besides, husband of the present respondent-Smt. Sunila namely Ramesh Kumar is still alive. It is also submitted that petitioner is an old man of 80 years and the respondent-Smt. Sunila has concocted false story in connivance with the others to grab his properties. The respondent-Smt. Sunila in fact was also challaned under Section 109 CrPC as she had been residing along with her children with one Grudeep Singh, Head Constable at Muktsar. Therefore, it is submitted that the grant of interim maintenance to the respondent is clearly unwarranted and impugned orders are liable to be set aside.

I have given my thoughtful consideration to the contentions of the learned counsel for the petitioner. However, the same are without merit. The learned trial Court was prima facie of the considered opinion that the marriage between the parties was proved on the file. Photographs along with negatives had been placed on the file of the learned trial Magistrate which show the solemnization of the marriage by exchange of garlands in the presence of 2-3 persons. Besides, it was observed that the petitioner had failed to produce any evidence to show that Ramesh Kumar-the previous husband of the respondent

was alive and that therefore respondent-Smt. Sunila was not entitled to claim any maintenance from him. The findings recorded by the Courts below are only for the purpose of grant of interim maintenance. The fact of the matter is to be considered on merit after evidence has been led. The fact, whether the petitioner indeed is 80 years old, is also to be considered by the learned trial Magistrate on the basis of materials on record. Therefore, this aspect is not liable to be gone into at this stage. The same would more appropriately be considered by the learned trial Magistrate itself.

Keeping in view the findings and conclusions reached at both the Courts below for grant of interim maintenance to the respondent at the rate of Rs.600/- per month, no ground is made out for interference with the same in exercise of the inherent jurisdiction of this Court under Section 482 CrPC.

Accordingly, the criminal miscellaneous petitions is dismissed.

(S.S. SARON)
JUDGE

May 10, 2007
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